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# House of Commons Debates

## SPEECH

OF

### Mr. R. L. BORDEN, M.P.

ON

## PROVINCIAL GOVERNMENT IN THE NORTH-WEST

OTTAWA, WEDNESDAY, MARCH 22, 1905.

Mr. R. L. BORDEN (Carleton, Ont.). Mr. Speaker, the right hon. the Prime Minister (Sir Wilfrid Laurier) has spoken with his usual eloquence upon the second reading of this Bill. If I were inclined to use his own words under certain circumstances in the past, I might term him a scrapbook orator to-day. Whenever I have endeavoured to gather up certain pearls of thought which he has distributed in days gone by and to contrast them with the utterances made in the immediate present, the right hon. gentleman has been good enough to apply that appellation to myself and I trust that he will not resent my returning it to him on this occasion. The right hon. gentleman has told us that the measure which the government has introduced, and especially the educational clauses contained in section 16 of the Bill, as well as the provisions which have been now substituted for that section, make for unity. Well, Mr. Speaker, they may make for unity in the country if the right hon. gentleman's own words are to be taken at their face value to-day, but certainly they have not made for unity in the cabinet nor among the right hon. gentleman's followers. The Prime Minister has been good enough a few days ago to charge me with having treated this question in this House lightly. I desire, in terms as strong as the usage of this parliament will permit, to repudiate to the utmost that assertion, and to say that if any man in this House has treated that question lightly it has been the right hon. gentleman himself. When I brought this question up two years ago, not he, nor any one of his colleagues in the cabinet dared to rise in his place and say one word about it. They put up the hon. member for Edmonton (Mr. Oliver) who was then the member for Alberta, to say on behalf of the government that they were not going into any 'blind pool,' and when the right hon. gentleman tendered to this country and to

the members of the Northwest the blindest kind of pool in the letter which he wrote in the heat of a general election, then hon. gentlemen on the other side were all too eager to accept it without one moment's question. That was the first occasion when he treated this question lightly. The next was when in this House he asserted, crying 'hear, hear' to the words of my hon. friend from Marquette (Mr. W. J. Roche) who interpreted the remarks of the Prime Minister as meaning that provincial autonomy could not be granted to the Territories of the Northwest for many years to come. And, in the next place, Mr. Speaker, he treated this question lightly when he brought this Bill down to parliament, telling parliament as plainly as if he had said so in express terms that this measure embodied the collective wisdom of the cabinet, when afterwards it transpired although the Bill had not even been submitted to the ex-Minister of the Interior or to the Minister of Finance, the most important members of the government. And, in the next place, Sir, my right hon. friend treated this question lightly when more than once I asked him across the floor of this House why it was that he, the leader of the House ventured to mislead it with regard to the attitude of two of his ministers. I asked him that question not once or twice, but three times, and the only answer I ever received from the right hon. gentleman was evasion and badinage. It does not lie in his mouth to charge me with having treated this question lightly in view of the fact that he has dealt with it after the fashion I have described. Further than that, the right hon. gentleman approaches the consideration of this question now without a minister in the Department of the Interior, although in the right hon. gentleman's correspondence the absence of the Minister of the Interior on former occasions has been put forward as a ground for delay. So much

for that. I will leave the right hon. gentleman himself to judge whether under these circumstances he or I can most justly be charged with having treated this question lightly and not in the serious way in which it should be treated.

I do not agree, Sir, with some remarks which the right hon. gentleman made in his speech on the 21st of February. He then said :

A great deal has been done; in fact more has been done than we have to do to-day. We have to take the last step, but it is easy and comparatively unimportant in view of and in comparison with what has already been accomplished.

I do not know whether my right hon. friend is quite of the same opinion to-day with regard to the easy nature of the step, but I venture to say in all seriousness that the step which we are taking is the most important and momentous step that has ever been taken by this parliament in regard to our northwestern country. We are doing to-day what this parliament cannot undo in the future, because the constitution which we now propose to give to the territories of the Northwest can only be altered by the imperial parliament.

I agree absolutely with the principle of this Bill so far as it is designed to give a provincial status to these territories. As leader of the Conservative party, I laid down that principle when in the northwest more than two years ago. I have stood for that principle in this House in the sessions of 1903 and 1904, and that principle I stand for to-day.

The mode in which the right hon. gentleman has brought down this measure has led to the expression of strong differences of opinion throughout this country. The educational clauses have been discussed almost exclusively in all parts of Canada. For the moment they overshadow other questions: they involve differences of race. When I addressed the House on the first reading of the Bill I said I did not desire to make this a political question. Perhaps the expression was not very happily chosen, because from whatever aspect considered, it must in the highest sense of the term be a political question in the end. What I should have said was that I did not desire to make it a party political question, and I do not desire to make it a party political question to-day. I shall express my own opinion with regard to it; I shall express that opinion at the present time; I have not felt called upon to speak before. In some parts of the country I have been referred to as a fanatic; in other parts I have been referred to as a coward and entitled to speak out. The proper time for me to speak is to-day upon the second reading, and before I conclude I shall, I think, make my position absolutely clear. And I say, that in taking the position which I shall now take, I do not for one moment suggest

that any hon. gentleman on this side of the House, following the dictates of his conscience and of his good judgment should feel himself in any way constrained by party ties to endeavour to agree with the views which I shall express.

Some hon. MEMBERS. Oh, oh.

Mr. FOSTER. They do not seem to understand that principle over there.

Mr. R. L. BORDEN. The right hon. gentleman in his opening remarks adverted to five principal matters contained in the Bill: to the number of provinces, to the boundaries of the provinces, to the financial terms, to the control of public lands and to the provisions respecting education. It seems to me that so far as I desire to make any observations on the first three of these, I can better do that in committee. I will, therefore, in the remarks which I address to the House to-day deal solely with the questions which concern the control of public lands and the educational provisions of the Bill.

So far as the control of the lands is concerned, I adhere to the opinion I before expressed in this House: that the people of the northwest when they are granted provincial rights are fully capable of dealing with these lands; that they are entitled to the control of these lands just as much as the people of the eastern provinces of Canada are entitled to the control of their provincial domain. I see no distinction. One organ of the government published in the city of Montreal, an organ in which my hon. friend the Minister of Agriculture is supposed to have a controlling interest, has given utterance to a delightful piece of information with regard to this matter. It declares that these lands should not be handed over to the control of the people of the northwest for fear of the danger which might be encountered from greedy land grabbers. Well, I am inclined to think-looking at the history of the past and looking forward a little to what may be expected in the future—that we are not likely to suffer any greater danger from land grabbers under the administration of the people of the Northwest Territories, than we have suffered in the past and are likely to suffer under the present administration. The right hon. gentleman argued that the control of these lands by the people of Alberta and Saskatchewan would probably interfere with the immigration policy of the government; he thought there might be interference with free homesteads and with the present low price of government lands. But, Mr. Speaker, may I not suggest with a great deal of force to hon. gentlemen on both sides of the House, that the people of the Northwest are more interested in attracting immigration to these splendid territories, which are their glorious heritage, than are the people of any other part of Canada.

Are they not the people chiefly interested? May we not rightly conclude that if these

lands are handed over to them, they will so deal with them as to best conserve their own interests by forwarding and assisting a vigorous policy of immigration? May I not further suggest that even if there were any danger—and I do not think there is—it would be the task of good statesmanship to have inserted, if necessary, a provision in this Bill with regard to free homesteads and the prices of those lands, and obtain to fit the consent of the people of the Northwest Territories. I see no possible constitutional difficulty because after all the question of the lands is not a question of legislative power until the lands are handed over to the people and become the public property of the provinces. There are hundreds of millions of acres of public lands in the provinces of Ontario and Quebec. Are we not endeavouring now to promote immigration to those provinces? And has the government of my right hon. friend found any difficulties interposed by any provincial administration which impede the carrying out of his immigration policy? Those lands are under the control of the provinces. The people of Ontario and Quebec go to their own provincial capitals and transact there all business relating to public lands. Why should not the people of the Northwest in the same way be entitled, when their own provincial capitals are established in the new provinces, to deal with their own public lands and exercise control over them in their own legislature? My right hon. friend has referred to the example of the United States. He found the example of that country very cogent in this instance; but when, a little later on, he came to deal with the question of education, he departed altogether from that example and presented it as one to be entirely avoided. But if the institutions of the two countries are so much alike that we may safely follow their example with regard to the lands, are not the characteristics and the religions of the two people so much of the same character that we might also grant to the people of the Northwest Territories exactly the same rights as are enjoyed by the states of the Union and by the provinces of Nova Scotia and New Brunswick?

My right hon. friend referred to his record in the past. He referred to his record with regard to the Manitoba school controversy. I do not desire to discuss this question from too controversial a standpoint, but does my right hon. friend really feel satisfied to-day with his record on that question, which so much disturbed public opinion ten years ago? If ever there was a question in this country calculated to arouse passion and prejudice, and if ever such a question was deliberately thrown into the political arena for the purpose of political gain, it was the Manitoba school question. That question was precipitated into the political arena by the right hon. gentleman and his friends then in opposition, and by his Liberal friends in the province of Manitoba. There can be no doubt

about that. Let us look at the record for a moment or two, as the hon. gentleman himself has called attention to it. There were difficulties surrounding the Conservative administration of that day. What was the attitude of my right hon. friend with regard to those difficulties? When the Conservatives desired to investigate, he was impatient of delay. When they desired to conciliate, he accused them of weakness and cowardice. When they sought an interpretation of the constitution in the courts, he declared that they were exciting passion and discord. When they proposed the remedial order, he declared it was ineffective and insufficient. When they sought to enforce it by an Act of this parliament, he declared it was too strong and drastic in its terms. He denounced in violent language the late Mr. Dalton McCarthy in 1890, not only as an enemy of his creed, but of his race, and three years later he was content to accept Mr. McCarthy's aid on that question. On one side of him, he established a very able gentleman, who does not now occupy a seat in this House, but who then represented the constituency of L'Islet, in the province of Quebec—he used that gentleman to declare that the rights of the minority were being betrayed in Manitoba. And on the other side he accepted the aid of Mr. McCarthy, who denounced the action of the Conservative government as coercive and oppressive. He himself posed in the English speaking provinces as the champion of provincial rights, and in the province of Quebec as the heaven-constituted protector of the minority. The hon. gentleman thus addressed himself with great skill to both opposing elements, and eventually succeeded in utilizing that question as the means of putting himself and his party into power. And after they did attain office, I ask my right hon. friend, in all seriousness and earnestness, whether or not he carried out to the full, and according to the spirit, the promise he made his compatriots in the province of Quebec. Well, the election came on, and my right hon. friend secured support in the English speaking provinces as the upholder of provincial rights. He secured also even a greater measure of support in the province of Quebec, and now he is face to face with the very same question to-day. Years ago Brougham, in the English House of parliament, addressed a cogent indictment against the gentleman who was then leading the English administration. There, he said, he sits to-day doing penance for the disingenuousness of years. Does my right hon. friend regard those words as having to-day some application to himself?

The prime minister first declared that this question is not one of separate schools, and then he proceeded to give us a long argument with regard to the value and necessity of such schools. I shall not follow him along that path. It is not, in my opinion, a question of separate schools, but a question

of provincial rights. It is not a question of separate schools, but of provincial self-government. It is not a question of separate schools but of constitutional home rule. It is a question of those privileges and liberties of which the right hon. gentleman, up to the present at least, has claimed to be the champion and exponent. No one appreciates or respects more highly than I do the moral and ethical training which the Roman Catholic Church bestows upon the youth of Canada who were born within the pale of that church. I esteem at the highest the value of the moral training of the children of this country; and I am free further to confess that I appreciate more highly perhaps than some others the consistency and devotion of Roman Catholics, in this and other matters of their faith, wherein they give to the Protestants of this country an example from which the latter might well learn valuable lessons.

Perhaps in dealing with this question to-day I shall not make myself understood, as I would like to be understood, by many of my friends in the province of Quebec, whose esteem and friendship I value second to none of any of my fellow-citizens in Canada. I have met these gentlemen in friendly intercourse, both Conservatives and Liberals; I have found among them men of broad, generous spirit, men of culture, men of wide reading, men able to look beyond the confines of their province and of Canada, men inspired not only with patriotism and devotion to this country, but with a broad and generous spirit in their regard for those who happened to differ from them in political opinions or in matters of religion. And I would desire to make myself understood not only by those who are within the sound of my voice, but by all my friends in the province of Quebec, all of those whom I have known long and intimately and whose opinion I highly regard; I desire them to appreciate the fact that I, to-day, am standing on the rock of the constitution, as I understand that constitution: that I simply desire that the domination of this parliament shall not in any way destroy or undermine that foundation upon which the provincial rights of this country rest. And if there are any men in Canada who should have a sacred regard for provincial rights, they are my friends from the province of Quebec, who of all men, have been in the past most jealous of the liberties of their province. It was in that school that my right hon. friend (Sir Wilfrid Laurier) learned long ago the lesson which he seems to have somewhat forgotten to-day. In the province of Quebec, there is and there is rightly, a strong spirit in favour of provincial rights. And it is because I interpret the constitution in the light of that spirit that I take the stand upon this question which I take to-day. Let me illustrate my meaning by one further statement. If any hon. member of this House or any man in this country should seek to insert in this Bill a provision forbidding the establish-

ment of separate schools in the Northwest, I would combat that proposal to the end, because I would consider it as absolutely in the conflict with the provincial rights which I desire to see maintained. I take this stand because I believe that not only in the light of the constitution, but in the light of the highest wisdom and statesmanship, education should be left absolutely to the control of the people of the new provinces.

Sir, in 1896—to refer again for one moment to the Manitoba school question—the constitution had been interpreted by the highest courts of the land. One decision had declared that Manitoba had absolute jurisdiction over education, except as controlled by section 22 of the Manitoba Act. (And, in referring to the Manitoba Act, let us remember that it has all the force of imperial legislation because it was found necessary, almost immediately to have it validated by imperial statute and it was validated by the British North America Act of 1871.) Another decision declared that parliament had power to enact remedial legislation. A remedial order was made by the Conservative government; and a remedial measure was introduced into this parliament by that government. My right hon. friend (Sir Wilfrid Laurier) fought against it. At his right hand he had Mr. Tarte, who then represented in this House the constituency of L'Islet, who I believe, expressed sincerely the strong views he entertained on this question. At his left, was Mr. Dalton McCarthy, to whom at least the same tribute is due. And between these was the right hon. gentleman (Sir Wilfrid Laurier), willing to accept the support of both. Like the three Romans who went forth to hold the bridge, these gentlemen went forth to hold the breach. Mr. McCarthy had upon his shield the device, 'No coercion; provincial rights.' Mr. Tarte had upon his shield the device 'The rights of minorities; equal justice to all.' The right hon. gentleman had on one side of his shield the device of Mr. McCarthy, and on the other the device of Mr. Tarte—I do not know which side he called the silvern and which side he called the golden; at all events the shield was thus exhibited. The general election came on, and, as I have said, the Conservative administration was defeated. In the maritime provinces a strong campaign was made, especially in the province of Nova Scotia, by my hon. friend the Minister of Finance (Mr. Fielding), with the war-cry 'provincial rights; no coercion of Manitoba.' In the west the same campaign was carried on by my hon. friend the ex-Minister of the Interior (Mr. Sifton). In Haldimand, in Winnipeg and in many other places throughout the west, 'No coercion of Manitoba' was the battle cry of that hon. gentleman, the ally and friend of the right hon. Prime Minister (Sir Wilfrid Laurier). And, Sir, what was all the storm about at that time? Had there been any attempt to violate the constitution? No; it was

simply a question of policy. The highest court of the realm had declared the right of this government to make a remedial order and of this parliament to enact remedial legislation. Undoubtedly, remedial legislation was within the terms of the constitution. Well, by an overwhelming majority, the people of Canada rendered this verdict, a verdict which has been twice confirmed, if confirmation were needed—in 1900 and in 1904. That verdict declared that even within the terms of the constitution there should be no coercion of a province in respect of its control over educational matters.

Sir, the Conservative party was not unanimous on the question at that time. It was in the very nature of things that it would not be unanimous. Nor was there absolute unanimity among the Liberals of that day. The great majority of the Conservatives believed in the constitutional rights of the minority, and they stood by those rights at great risk and great cost to themselves. Men supported that Remedial Bill who knew that their action in so doing would debar them from future participation in the public life of Canada. The sacrifice was great, but it was not too great for many members who sincerely believed in the wisdom of enacting that legislation, who even went further and believed it to be the absolute duty of parliament to enact that legislation as proposed by the Conservative administration. And there were equally sincere men in the ranks of the Conservative party who combated that proposal, and, in the end, their position was sustained by the verdict of the country, brought about, in very great measure I believe, by the eloquent addresses of my right hon. friend (Sir Wilfrid Laurier) in favour of provincial rights—addresses which were re-echoed in Ontario, in the maritime provinces and in the west by the Minister of Finance (Mr. Fielding) by the Postmaster General, (Sir William Mulock), by the ex-Minister of the Interior (Mr. Sifton), by the Minister of Customs (Mr. Paterson) and many other gentlemen on that side of the House.

Well, after the elections my right hon. friend stood forth as the champion of the liberties of the people, as the defender par excellence of provincial rights, as the conciliator who had dispersed by sunny smiles the mists of passion and prejudice. If he was rightly estimated by the people of Canada at that time, there is grave question in the minds of many whether he has not now abandoned the principles which he then professed. Under what conditions did he present this measure? Without consulting his two ministers best qualified by their knowledge and experience, without really consulting the representatives of the people, the executive government of the Northwest, with regard to this particular clause, and moreover, if we may believe all that we now hear, without consulting the representatives in this House of the people of the Northwest. I have chal-

lenged him before to state to this House and to the people of this country the reasons which induced him to bring down that measure without exposing it to the ex-Minister of the Interior, then a member of his cabinet, or to my hon. friend the Minister of Finance. I have thought this involved to some extent the self respect and even the honour of my right hon. friend. He has not so regarded it. He must be the guardian of his own honour, I admit that, and I do not press him further. But I venture to think that it was only due to parliament and to the country to declare to us why he saw fit to adopt that most extraordinary course.

Now I come to the arguments of my right hon. friend when introducing this measure. He put forward constitutional grounds, and he gave two reasons, which I must examine a little in detail, even if in doing so I trespass upon the indulgence of the House. The first reason he gave, so far as I was able to comprehend his argument, was this: That when parliament in 1873 enacted section 11 of the Northwest Territories Act of that year, it imposed permanently upon those territories the provisions therein contained, so that they must necessarily become embodied in the constitution of such territories when created into provinces. To state that proposition seems to me to refute it. Parliament could at any time within the last thirty years have repealed section 11, or any other section of that Act; parliament could repeal that section to-day. Parliament on many occasions during the past thirty years has amended and modified the provisions contained in that Act. In 1890 Sir John Thompson introduced and this House carried an amendment, to a resolution moved by Mr. McCarthy. That resolution so amended conferred upon the people of the Northwest Territories power to deal with the question of dual languages after the next general election. A similar provision could then have been made with regard to education. So that provision contained in section 11 of the Act of 1873 must be regarded not as a permanent measure, but, as a temporary provision which could at any moment be repealed by parliament so soon as it saw that the legislature of the Northwest might safely be entrusted with larger powers. It was absolutely within the power of parliament at any time during the past thirty years to have given to the people of the Northwest the same authority over education as was given by the measure to which I referred with respect to the use of the dual language. It was absolutely within the power of parliament at any time within the last thirty years to have given to the people of the Northwest Territories exactly the same power over education as that which is enjoyed to-day by the people of Nova Scotia, of New Brunswick and of Prince Edward Island. Now I challenge my right hon. friend the Prime Minister,

my hon. friend the Minister of Justice, or any other gentleman on that side of the House to refute that statement, and to do so by any convincing or satisfactory argument.

My right hon. friend has referred to the opinion of the late George Brown. So far as matters of policy in this country are concerned, Mr. Brown's opinion would undoubtedly be of great weight, and should commend itself especially to hon. gentlemen on that side of the House who were brought up in that school of which Mr. Brown was the leader. Therefore when my right hon. friend, upon the first reading of this Bill, was obliged to quote the words of Mr. Brown condemning any attempt to create separate schools in the Northwest of Canada, he was giving to his followers a lesson read to them by the leader of that school in which they were brought up. But he was not content to deal with the opinion of Mr. George Brown upon a question of policy, he rather sought to use Mr. Brown as a constitutional authority. Well, we know that Mr. Brown was not dealing with the question from the standpoint of constitutional obligation; we know he was not well qualified to do so, because he had not the legal training and the constitutional knowledge which would cause him to be recognized as a great authority on a question of that kind. Now if my right hon. friend desired to quote Mr. Brown's views upon the constitution, he might well have read to the House these words from Mr. Brown as a constitutional authority:

The constitution was framed with a view to leaving this question to the settlement of the various provinces, and it would be folly in parliament to violate that arrangement.

But if my right hon. friend really desired constitutional authorities, he might have come down a little later. I will give to the House the authority upon that question of men versed in the law, men whose every word upon the meaning of the constitution must carry weight. In the first place, let me cite the views of the late Sir John Thompson, a great lawyer, a great constitutional lawyer, which were uttered in this House in the year 1894:

What the constitution of the future provinces shall be, in view of the pledges which have been referred to, or in view of any other set of circumstances, will be for parliament to decide when it decides to create these provinces.

There was another gentleman, a lawyer who devoted himself, almost all his great ability, to the consideration of the constitution of Canada, a gentleman who, after being a colleague of my right hon. friend in his cabinet, was elevated to the Supreme Court of Canada, and whose loss by death a few years ago we all deplore. I refer to Hon. David Mills, who, speaking also in this House, in 1894, used this language:

When the people of the Territories or any portion of the Territories are sufficiently numerous to constitute a province, when, in fact, they attain their majority in regard to local matters, and when they propose to set up for themselves, this parliament has no right to exercise control over them, no right to exercise any authority; it can give good advice, but it has no right to give commands. But we are not dealing with the future. When the Territories have a sufficient population to entitle them to become a province they must decide for themselves whether they will have separate schools or not.

Another gentleman, at one time a prominent member of this House, now elevated to the bench of the Supreme Court of Canada, recently dealt with the permanency of institutions in the Northwest Territories. I refer to a very distinguished judge, to Mr. Justice Girouard. In a case lately decided in the Supreme Court in which he pronounced judgment upon the claim of certain municipalities in the Northwest Territories to impose taxation on Canadian Pacific Railway lands, Mr. Justice Girouard said this:

I cannot conceive that until provincial autonomy be granted under the imperial statutes to the Territories, or any part thereof, that the Parliament of Canada cannot amend, alter, or even repeal in whole or in part any provision passed for its government.

Could any language be stronger? Continuing the learned judge says:

The express orders of parliament were to be the supreme law as long as the Territories remain part of the public domains of Canada, without provincial autonomy, which has not been granted to this day.

A former colleague of the right hon. gentleman, a man of great experience in this House, a man who was a constitutional authority, a man whose abilities as a lawyer were so eminent that my right hon. friend parted with him as a colleague in order that he might give his services to this country as a jurist upon the Supreme Court—I refer to Sir Louis Davies—also dealt with this question. He said this:

The vast territory west of Manitoba through which the railway was to run was practically at the time uninhabited by white men. The provisions made for its future government were temporary, tentative and entirely subject to the control and guidance and supervision of the Dominion parliament and authorities.

Further on:

Most of the powers of the Territorial government were to be given in the discretion of the Governor General in Council from time to time and withdrawn when and as he thought fit.

And again:

The powers of legislation possessed by the Territorial council were delegated and not plenary powers. \* \* \*

All ordinances which the council had power to pass were to be subject to and not inconsistent with Dominion legislation especially relating to the Territories.

Mr. Clement, an eminent constitutional writer, at page 370 of the 2nd edition of his book has also dealt with this subject. I desire to make this question plain inasmuch as my right hon. friend has based his constitutional argument upon the permanence of those institutions upon the theory that, forsooth, because a certain enactment was passed in 1875 when there were only 500 people west of Manitoba, that provision must be, by the decree of this parliament, permanently impressed upon those territories although they now contain a population of 500,000. Here are the words of Mr. Clement:

From that time—

Speaking of the early history of the Territories—

—to the present, the Dominion parliament has had the power to legislate for the Northwest Territories in reference to all matters within the ken of a colonial legislature; and although large powers of local self-government have been conceded to the inhabitants of these territories they are held at the will of the parliament of Canada. To what extent that parliament will interpose in reference to matters over which legislative power has been conferred on the Northwest Assembly, depends on 'conventions' not capable of accurate definition. No doubt before very long a new province or provinces will be formed out of these territories. The position, therefore, is so evidently temporary that it is difficult to decide to what extent of detail one should go in discussing the present position of the Northwest Territories.

Now, are not these authorities sufficient for my right hon. friend, or indeed sufficient for any hon. member of this House, to induce him to come to the conclusion that these provisions were absolutely temporary and tentative in their nature and that there exists nothing in the constitution which for one moment obliges us to impose this provision for ever upon these Territories by an Act which we cannot repeal? If the authority to which I have referred is not sufficient let me cite one which occasionally irritates my right hon. friend when it is quoted, one which is often inconsistent with his views, but nevertheless, one which, if it does not command his respect, will at least, I am sure, attract his attention. My right hon. friend himself said in this House:

It is impossible to admit for instance that the institutions of the Northwest are permanent. On the contrary they are exceptionally temporary; they deal with a state of things which is exceptional in itself; they were devised at a time when there was no population and they must be modified from time to time as the necessities of the case require. But at this moment to say they are permanent is a thing in which I cannot agree except so far as they must be permanent in every particular, so long as we are not ready to give these people a more extended form of local authority.

Mr. Speaker, you do not observe in this opinion of my right hon. friend any especial

reference to the permanence of this provision which he now seeks to impress for ever upon the people of the Northwest Territories. But, let me not forget one other authority which I should refer to, that is the authority of Sir John Thompson, whom I have already mentioned. These words were uttered in the year 1891. Mr. McCarthy, in the course of his speech on that occasion, used this language and Sir John Thompson gave the following answer:—

As I understood the First Minister in his answer to the hon. member for West Assiniboia—perhaps I was wrong, but I would like to be corrected if I was wrong—rather insisted upon the view I am putting which is that if separate schools are continued until the Northwest Territories are given provincial autonomy they will have the right of insisting upon that being continued when provincial autonomy is conferred upon them.

SIR JOHN THOMPSON. I did not say that.

Mr. McCARTHY. Then I fail to understand the views which the First Minister holds. He seems to be on both sides of the question.

SIR JOHN THOMPSON. Not at all. If I spoke ambiguously before, I was not at all conscious of it; but I cannot be said to be ambiguous after the explanation I made to the hon. member for Assiniboia. I appealed to the House to continue the present system while the territorial system continued, and I declared that in my opinion the whole subject would be open and free to parliament as to what constitution we would give to the provinces when provinces were created.

Now, my right hon. friend took one other ground. He says that within the four corners of the British North America Act, 1867 to 1880, he has found justification for imposing upon the people of the Northwest this restriction. I take issue with him upon this ground as strongly as upon the other. Neither in the negotiations and resolutions which led up to the British North America Act, 1867, nor within the four corners of that Act, and of the Acts in amendment thereto, can any provision be found which obliges, or in my humble opinion even justifies parliament in imposing separate schools upon the new provinces. No doubt in this I may be in conflict with some hon. gentleman in this House, apparently with the Minister of Justice (Mr. Fitzpatrick) for otherwise this provision would not be brought down. If anything would cause me to hesitate in my own opinion it would be that I differ from the Minister of Justice (Mr. Fitzpatrick) whose legal ability I very highly esteem. I do not claim to be infallible, but I have given to this question a good deal of consideration and it is my duty to state the conclusion I have arrived at, and which I have just stated, that there is not any provision within the four corners of the Act which obliges or in my humble opinion even justifies parliament in imposing this restriction upon the legislative power of the proposed provinces.

Let us examine in the first place the negotiations upon which the British North America Act was passed. Do not forget

that in the very outset the intention was to include in the confederation the very territories that are now being constituted into provinces. My right hon. friend (Sir Wilfrid Laurier) has referred to the Quebec resolutions. Let me also refer to them. He has referred to the 43rd article and to the 6th sub-article. I shall read that because it is important to consider it in order to judge whether, outside the strict letter of the law, and within the spirit of the constitution, within the lines of the negotiations which resulted in its formation, anything is to be found which justifies the present action of the government. The 43rd article enumerates subjects within the exclusive power of the provincial legislatures and the 6th sub-article is as follows:—

Education, saving the rights and privileges which the Protestant or Catholic minority in both the Canadas may possess as to their denominational schools, at the time when the union goes into operation.

Not a word about Nova Scotia, not a word about New Brunswick, not a word about Prince Edward Island. Is there anything about the Northwest Territories in that resolution? Not one word, not one syllable.

But in construing that article do not forget to read in connection with it article 10 of the same resolution, which is this:

The Northwest Territories, British Columbia and Vancouver, shall be admitted into the union on such terms and conditions as the parliament of the federated provinces shall deem equitable, and as shall receive the assent of Her Majesty; and in the case of the provinces of British Columbia or Vancouver as shall be agreed to by the legislature of such province.

What do I argue from that? There were resolutions passed with regard to the union of certain provinces, the 10th article of those resolutions contemplated the bringing into the confederation of the very territories with which we are dealing to-day, and when the question of education was dealt with under article 43, sub-article 6 of the resolutions no restriction was placed upon the powers of provinces which might be created in the future in the Northwest. Certainly, this is very significant. My right hon. friend in his speech upon the first reading of this Bill very frankly admitted this. He said:

I shall be told that that exception applies to Ontario and Quebec alone, and not to the other provinces. Sir, that is true. Amongst the four provinces then united, Ontario and Quebec alone had a system of separate schools.

Let us trace the history of this a little further. The British North America Act was passed and went into force on the first of July, 1867. Section 146 provided for the admission of other provinces upon a joint address of their legislatures and of the parliament of Canada. I shall read it.

It shall be lawful for the Queen, by and with the advice of Her Majesty's most honourable Privy Council, on addresses from the Houses

of the parliament of Canada and from the Houses of the respective legislatures of the colonies or provinces of Newfoundland, Prince Edward Island and British Columbia to admit those colonies or provinces, or any of them into the union, and on address from the Houses of parliament of Canada to admit Rupert's Land and the northwestern territory, or either of them into the union on such terms and conditions in each case as are in the addresses expressed, and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the parliament of the United Kingdom of Great Britain and Ireland.

I lay special stress upon the words 'subject to the provisions of this Act.' Under this provision the Territories became part of Canada on July 15, 1870, under an order of Her Majesty in council passed upon two addresses from the parliament of Canada. These addresses, did not, nor did the Order in Council founded upon them, nor did the Rupert's Land Act, 1868, contain any provision which authorized, it seems to me, or justified, in my humble opinion, the imposition upon the people of the Northwest of the educational provisions contained in the present measure. Manitoba was included in the territory which became part of Canada under that Order in Council. The position of Manitoba was a little peculiar. An Act was passed by this parliament in anticipation of the Order in Council to which we have just referred. That Act was passed on May 12, 1870, a little more than two months before these territories became part of Canada, and therefore Manitoba was created into a province at the very moment that it became part of the Dominion of Canada. That is a circumstance which should never be lost sight of in dealing with any question relating to Manitoba, and I have already pointed out that so doubtful was parliament, so doubtful was the administration of the day of the validity of the Act creating Manitoba into a province, that recourse was almost immediately had to the parliament of Great Britain and the provisions of the Manitoba Act were validated by the parliament of Great Britain in 1871. Therefore, any question which might otherwise have arisen whether or not this parliament was justified in inserting certain provisions in the Manitoba Act became immaterial and never could arise after the passing of the British North America Act, 1871. Under these circumstances it seems to me that no constitutional obligation, and, in my humble opinion, with all deference to the views of those who think differently, no constitutional authority is found for the educational clauses. I am of that opinion because these educational clauses depart in terms from the provisions of the British North America Act which they purport to embody. If my right hon. friend (Sir Wilfrid Laurier) is correct in his contention that he is observing not only the letter but the spirit of the constitution, why is it that he

has inserted in section 16 both as originally drafted and as amended provisions which purport to incorporate but which do more than that, which amend and change the terms of the British North America Act?

The Prime Minister in his argument to-day declared that these Territories became entitled to the provisions of the British North America Act when they became part of this confederation. So they did, but 1873 is subsequent in date to 1870, and he is not seeking to-day to preserve any rights which existed at the time of the union in 1870. He attempts by this measure to perpetuate privileges which did not then exist, but which were created by this parliament in 1775. Is my right hon. friend willing to base his case upon the rights which existed in the Northwest Territories at the time of the union? What does my right hon. friend regard as the time of the union? I gathered from him to-day that the time of the union, is the time when these provinces became part of the Canadian confederation. If that is the meaning of the constitution let the constitution be so construed and acted upon without any attempt by this parliament to override or change its provisions. My right hon. friend says that under subsection one of section 93 of the British North America Act, laws imposed by this parliament upon the Territories in 1873, when those Territories had only 500 people must continue for ever to be the laws of these Territories, although they contain 500,000 people now and inside of twenty years they may contain 2,000,000 of people. That is my right hon. friend's argument when reduced to its essential terms. He quotes from section 93 of the British North America Act; let us look at that section:

In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.

Was it not decided in the Barrett case in 1892, that the inhabitants of the Northwest Territories comprised within the limits of the province of Manitoba had no right to separate schools either by law or practice at the time Manitoba became part of confederation. Was not that decided, and is not the date on which the Territories became part of confederation exactly the same date on which Manitoba became part of confederation and became a province of Canada?

Subsection 2 of section 93 is not very material because it relates solely to Ontario and Quebec. Subsection 3 of 93 reads:

Where, in any province, a system of separate or dissenting schools exists by law at the union or is thereafter established by the legislature of the province, an appeal shall lie

to the Governor General in Council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

And section 4 provides:

In case any such provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section.

It will be specially observed that in subsection 3 the word, 'prejudicially', is not found. It says:

—an appeal shall lie to the Governor General in Council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

In the letter to which the Prime Minister has called attention, Mr. Haultain has quoted certain words of Mr. Blake, which are very cogent in considering this question. Mr. Blake in 1869 said:

It is perfectly clear on great and obvious principles that the basis of union settled by the British North America Act is not capable of alteration by parliament.

To the same effect is the opinion of the well known and very able writer Mr. Clement in the second edition of his work on 'The Canadian Constitution,' page 352, where he says:

Can a new province be established with a smaller sphere of authority than that occupied by the provinces named in the British North America Act, 1867? By the British North America Act, 1866, the three Acts are to be read together and may be cited as the British North America Acts 1867 to 1866. And by section 6 of the British North America Act 1871, a Dominion Act establishing a province becomes, in effect, an Imperial Act—at all events an Act which cannot be altered by anything short of imperial legislation. It is submitted, therefore, that any new province created under this section must be given full provincial autonomy and powers as defined in the original British North America Act, 1867.

Analyze the British North America Act so far as analysis is necessary for the purpose of considering this question and what do you find? In the first place you find the establishment of a federal parliament and a federal executive; in the next place you find the establishment of provincial legislatures and provincial executives; in the next place you find the distribution of executive power between the federal executive and the provincial executive, and lastly you find the distribution of leg-

islative power between the Dominion parliament and the provincial legislatures. This analysis is not exhaustive, but it covers all that is necessary for the present purpose. I submit, Sir, that the basis established by this distribution of legislative and executive power cannot be altered either under section 146 of the British North America Act or under section 2 of the British North America Act, 1871. In establishing a new province can this parliament wholly or partially alter the basis of confederation: can it change the distribution of legislative power? That, I submit can only be done by the imperial parliament. Surely it cannot be contended that in giving to a new province the constitutional rights conferred by the British North America Act we can reverse the scheme framed by the fathers of confederation and embodied in an imperial statute. Yet, that is what the right hon. gentleman seeks to do to-day by the provisions contained both in the original and amended section 16 of the Bill. In creating a new province under the British North America Act can this parliament so amend section 92 as to transfer to federal jurisdiction ninetenths of the powers which by the express terms of that section are to be exercised exclusively by the provinces? Can this parliament transfer to such a province any of the powers which under the provisions of section 91 come within the exclusive jurisdiction of the federal parliament? If we can transfer any why not all and thus completely transpose and reverse the entire scheme and compact of confederation. I submit that we have no duty, nay, we have no right or power to shatter the foundations then laid, or to rewrite the compact into which we then entered.

But it may be said that the second section of the British North America Act, 1871, has the effect of enabling this parliament to alter the terms of the constitution created in 1867. I do not so read it. I have already quoted section 146 of the British North America Act, and attention must be especially called to the words in that section:

Subject to the provision of this Act.

Take in connection with that the words of the third section of the British North America Act, 1886. In the passage which I quoted from Mr. Clement he drew attention to these words, but I desire to emphasize them, and I shall read the third section of the British North America Act, 1886:

This Act may be cited as the British North America Act 1886. This Act, and the British North America Act 1867 and the British North America Act 1871, shall be construed together and may be cited together as the British North America Acts 1867 to 1886.

Well, with that light let us go to the British North America Act of 1871 and observe its terms. The British North America

Act of 1871 in its preamble recites as follows:

Whereas doubts have been entertained respecting the powers of the parliament of Canada to establish provinces in territories admitted, or which may hereafter be admitted into the Dominion of Canada, and to provide for the representation of such provinces in the said parliament, and it is expedient to remove such doubts and vest such powers in the said parliament.

And after that preamble we have the words of section 2 of the Act, which are as follows:

The parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province and for its representation in the said parliament.

In the first place, you must read into that the words of the Act of 1886, to which I have already referred, which declare that these three Acts must be construed together. In the next place, you must read into the Act of 1871 the words contained in section 146, 'subject to the provisions of this Act.' When you examine section 2 of the British North America Act of 1871 in the light of these provisions, I venture to submit that the imperial parliament did not intend by the Act of 1871 to authorize the parliament of Canada to alter the distribution of legislative power which is provided in the British North America Act of 1867.

Let us examine then the basis of union with regard to education, because that still remains to be considered, and it is upon that point my hon. friend has rested a considerable portion of his argument. Would it not be well before doing so to observe how this question has been regarded by great constitutional lawyers in days gone by? There was no man in parliament for whose opinion in constitutional matters my right hon. friend had greater regard than the late Hon. David Mills. Speaking in this parliament in 1894, Mr. Mills said:

When you look at the subject of education prior to the union you will find not that any system was expressly imposed upon the province, not that the principle of separate schools was virtually established, but the rule was established that where separate schools were established and had been established before the union, they should remain, and where they were not established, the province should retain control over the subject to introduce them or prevent their introduction as seemed proper to the people. We have a practical illustration of this fact in the position of things in the maritime provinces and the provinces of Ontario and Quebec. So far as the Territories were concerned—I do not at all admit that the introduction of separate schools there stands upon the same footing as the introduction of separate schools in the province of Ontario, or of dissentient schools in the province of Quebec. In these provinces they are protected under the

constitution; they cannot be interfered with by the local legislature. But in the Northwest Territories, as the hon. minister has said, it has been a matter not of right, not of guarantee to any particular class of the population, but a matter of policy. They were introduced with the view of preventing conflict in this House upon the subject of separate schools and for the reason that they were introduced there they should be maintained as long as these Territories are under the control of this parliament. When this parliament has discharged its duties and the people of the Territories have received the population to entitle them to enter the union they must assume the responsibility for deciding for themselves under the British North America Act how far they should maintain the principle of separate schools or maintain the non-denominational system. Any attempt on our part, whatever our inclinations or feelings may be, to anticipate what ought to be done in that particular, by the province after its autonomy is established, instead of being a source of security to its institutions would be a source of great danger.

Mr. McCarthy, who was inclined to differ at one time a little from Mr. Mills in that regard, said in the same debate, speaking a little later on:

It may be that the view of the hon. gentleman from Bothwell is right in that respect and that clause two of the Act of 1871 does not give to this parliament the power, in creating a province to confer any constitutional rights other and different from those mentioned in the British North America Act.

And to the same effect, if I desired to heap up authorities, is the opinion of a gentleman who was elevated to the Supreme Court in Canada by my right hon. friend—elevated to a court where these constitutional questions continually are presented. He was elevated no doubt for the reason that he was a student of constitutional law and a high authority on that subject. I refer again to Sir Louis Davies. That gentleman said, in 1891, in this parliament:

My opinion is now and has been for years that when that time comes you cannot withhold from the provinces so erected the right to determine for themselves the question of education in one way or the other. I would be the last to favour this parliament imposing upon the people there any system of education, either free or separate. I only claim that when a Bill is introduced to erect those Territories into provinces that Bill should contain a provision enabling the people of the different provinces so created to decide what system of education they shall have. I do not discuss that question now. I only express this view lest I might be supposed by my silence to give assent to some extreme doctrines which hon. gentlemen have propounded. In view of the remarks which have been made, I thought it necessary to disclaim that, in assenting to the passing of this Bill, I bound myself for all time on this question of education. I do not. Although we are giving powers almost equal to those conferred upon local legislatures, we are not erecting the Territories into separate provinces. When that is done I suppose it will be done by the Queen in Council under the 146th section of the British North America Act, and I simply claim the right when that time comes to de-

termine for myself. In accordance with the view I have always held and hold now, I have no hesitation in expressing, respectfully, that the people of those new provinces should have the right to determine what system of education they shall have.

Is there anything in the terms of section 93, read in connection with section 2 of the Act of 1871, which authorizes or indeed justifies the imposing of restrictions on the legislative rights of the new provinces? Let me once more read it, omitting what is immaterial in this regard:

The parliament of Canada may establish new provinces and may make provision for the constitution and administration of any such province and for the passing of laws for the peace, order and good government of such province and for its representation in parliament.

It is urged that when you read that in connection with section 93, you are to conclude for some reason that the schools which were established in 1875, or the law which was passed in 1875 and the ordinances which were enacted in pursuance of that law, are to be imposed and must indeed constitutionally be imposed upon the new provinces. What is the basis with regard to education? The basis is that in and for each province the legislature may exclusively make laws in relation to education, subject and according to certain provisions.

These provisions I have already adverted to; and the question arises whether or not they have any relation to the creation of provinces from territories which became part of Canada in 1870—whether or not laws which were not in force in those territories at the time when they became part of Canada are or can be imposed upon the territories under the constitution by virtue of the provisions of section 93 coupled with the Act of 1871. With all deference to the opinion of those who differ from me in this regard, I submit that such is not the result. And it is perfectly clear that in their hearts the government believe that these provisions have no such effect. Otherwise they would not have attempted to change those provisions by the Bill now before the House. If the constitution is the rock upon which the right hon. Prime Minister stands, why does he not let that rock stand and why does he not build the superstructure of his legislation upon it? Why does he seek first to undermine it as he is attempting to do?

I submit that the first subsection of section 93 which affords the key to all the subsections, is only applicable to provinces already formed, already existing as separate sovereignties. The words of the section are: 'In the province at the union'—contemplating, it seems to me, laws which had come into existence by the sovereign will of the people before they entered this confederation, and not laws imposed upon 500 people in the Northwest of Canada in 1875, at a time when their voice could not indeed be heard in this parliament because they had then no representative here. These ter-

territories do not come into the union as a province. The words of the section I have just read are not apt, nor were they intended to convey any such meaning as the right hon. Prime Minister has attempted to read into them. In making his argument in favour of withholding the lands from the province, the Prime Minister inadvertently made a very strong argument against these educational provisions: and I will tell him what it was. He said:

When the provinces which I have named came into confederation, they were already sovereignties. I use that term, because barring their dependence as colonies they were sovereignties in the sense of having the management of their affairs.

And a little further on:

But the case of these new provinces is not at all similar.

This is the right hon. gentleman's argument when he withdraws from them control of their lands; but when he wishes to withhold from them control in matters of education they are to be regarded as sovereign and exactly in the same light as the four provinces that originally entered confederation. Sir, I contend that that section was only designed to preserve rights created by the people themselves in their independent legislatures before the union. It was a matter of compact. Legislative sovereignty had already established certain rights. These were not to be prejudiced after union had taken place.

In the case of the Northwest, however, the people had never acted. A system imposed upon them in 1875, which has continued from that time to the present, is now sought to be made perpetual. The people did not freely establish separate schools in the Northwest, but these were established under the terms of a statute in framing which the people had no voice, but to which as good loyal subjects they have been absolutely obedient so long as they were in a territorial position. The territories have never had any complete legislative powers such as were originally enjoyed by the provinces of Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and British Columbia. Parliament, as I have pointed out over and over again could have revoked the power conferred first upon the territorial council and afterwards upon the territorial legislature. The right hon. Prime Minister sought to overcome this by a misuse of words—I say that in no offensive sense. He said:

So, Sir, now whenever a province comes here knocking at this door asking to be admitted into confederation, if in that province there exists a system of separate schools, the British North America Act has provided that the same guarantee we give to the minority in Quebec and Ontario shall also be given to the minority in that province.

In this case no province comes here knocking at the door asking for admission.

leaves out of sight in that illustration, the

into confederation. The government is proposing a measure to parliament under which provinces are created; but these will not be provinces until after this Act is passed and has gone into effect. It is of no use to attempt to dispose of high constitutional rights by any such juggling with words as that. The Prime Minister deals with the question as if the people themselves had established their own system of separate schools by their own independent, sovereign action. They have not done anything of the kind. They established separate schools in the Northwest because the Act passed in 1875, when there were not more than five hundred people in the Northwest, imposed upon them the duty of establishing separate schools if they should establish any schools at all. Again the Prime Minister says:

If we were in the year 1867, and not in the year 1905, and if we had to introduce into this Dominion the provinces of Alberta and Saskatchewan—

Mark the language: 'The provinces of Alberta and Saskatchewan'—treating them as if they were already sovereign entities. Why did he resort to what I, without desire to offend call a misuse of words? I will answer for him: It is because he was obliged to do so to give even a semblance of support to the measure which he introduced to the House on the 21st of February. Let me read again what I just now began to read:

If we were in the year 1867, and not in the year 1905, and if we had to introduce into this Dominion the provinces of Alberta and Saskatchewan, would my hon. friend tell me that these provinces would not have the same rights and privileges in regard to separate schools as were granted to Ontario and Quebec?

Did any one ever hear a more absolutely unfounded premise and a more absolutely false conclusion? And it was cheered lustily by some of these hon. gentlemen who since have been going about in sackcloth and ashes because of their difficulties upon this question.

At six o'clock, House took recess.

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Mr. R. L. BORDEN (Carleton, Ont.) I have pointed out that it is not a question of introducing into the Dominion in this year, 1905, provinces of Alberta and Saskatchewan, but of creating out of the Northwest Territories of Canada these provinces under the Bills which have been introduced. And the right hon. gentleman continues as follows:

Would he tell me that when you would say to Ontario and Quebec: You shall have your separate schools, Alberta and Saskatchewan would be denied that privilege? The thing is preposterous. Let us rise above such considerations.

Well, I ask him why he conveniently

cases of New Brunswick, Nova Scotia and Prince Edward Island? He himself, has pointed out in an earlier passage of his speech—indeed to-day he has gone into the historical aspect of that matter—that these clauses, so far as Ontario and Quebec are concerned, were introduced into the British North American Act by virtue of a compact, and that no such compact existed in respect to the three maritime provinces. Well, if my right hon. friend will show me that the case of these proposed provinces—because they are not yet provinces—comes nearer to the case of Ontario and Quebec than it does to the case of the maritime provinces, if he is able to show me that there is in respect to these proposed provinces any such compact as that which was made before confederation between Ontario and Quebec, I will then readily and gladly accept his illustration; but until he does so I contend that his illustration is of not the slightest value.

Mr. Speaker, I am opposed to section 16, because it is opposed to the spirit and the letter of the constitution. I am opposed to the substituted section because it is not different in principle from that for which it is substituted; and indeed it is difficult to understand why there have been three weeks of delay, why there have been three weeks of negotiation, why there have been three weeks of turmoil, why this measure has been postponed from the 21st of February up to the present time, simply for the purpose of bringing down to parliament as a substitute that which is to all intents and purposes, in principle and for the most part in detail, exactly the same as the original section. Is this the result of the efforts of the ex-Minister of the Interior? Is it for this that he resigned office? Is it to accomplish this that he laid down the seals of office and placed himself before the people of this country as the champion of provincial liberties? Is this the result of the unceasing and untiring efforts of the seven hon. gentlemen from the Northwest Territories who sit on the other side of the House? Sir, the mountains have been in labour, and a ridiculous mouse has been brought forth. What does section 16 as proposed to be amended accomplish? It stereotypes for ever the ordinances and laws of the Northwest Territories in a portion of the country where extraordinary progress and development must be expected. I venture to think that an Act of this kind will be productive of more harm in that portion of the country than anywhere else in Canada, because it is into the Northwest that our immigration will largely flow, and it is there that we must expect development and progress to a very unusual degree in the immediate future.

Why, the very form of section 16 and of the substituted section show that the government are not serious in the contention which the right hon. gentleman has made. What

had they inserted in this Bill before we came to section 16? They had inserted section 2, which I will read to the House:

2. The provisions of the British North America Acts 1867 to 1886, shall apply to the province of Alberta in the same way and to the like extent as they apply to the provinces heretofore comprised in the Dominion, as if the said province of Alberta had been one of the provinces originally united, except in so far as varied by this Act and except such provisions as are in terms made, or by reasonable intendment may be held to be, specially applicable to or only to affect one or more and not the whole of the said provinces.

Has not the right hon. gentleman over and over again in this House, both upon the first reading of this Bill and in the speech which he made this afternoon, told us that it is his intention solely and absolutely to apply to the Northwest Territories of Canada the provisions of that constitution under which all Canadians live. Now I ask him, and I ask every hon. gentleman on the other side of the House who proposes to deal with this question, why section 2 is not sufficient to apply to the Northwest Territories of Canada, every provision of the constitutional statutes which it enumerates? If my right hon. friend proposes to stand on the rock of the constitution, what portion of the rock of the constitution is omitted from section 2? It goes further, I believe, in the direction in which the right hon. gentleman desires to persevere, than it should go having regard to the fact that this is not a province already constituted coming into the Dominion, but is a province to be created by the very Bill we are now discussing. I will have something more to say about that when this Bill is in committee. But putting aside for the moment that question, is or is not my right hon. friend sincere, are or are not his colleagues sincere, when they tell this House that they desire the control of education in the Northwest Territories to be regulated solely by the provisions of the constitution? If they are sincere, then I say that they have everything in section 2 that can possibly be given—if they stand as the right hon. gentleman says, he does stand, on the rock of the constitution. Why, the matter is not arguable. For what reason do they insert these words?

Except in so far as varied by this Act.

If you are to stand on the rock of the constitution, if my right hon. friend and his colleagues are prepared to stand or fall by the provisions of the constitution, how is it that they desire to vary in one jot, tittle, or iota the provisions of the constitution? My right hon. friend has accused the press of this country of fomenting discord, of arousing passion, and strife and prejudice.

An hon. MEMBER. Hear, hear.

Mr. R. L. BORDEN. I want to tell my right hon. friend, and I want to tell the

hon. gentleman who is venturesome enough to say, 'hear, hear,' that what has agitated the people of this country is not so much what has been said by the press as the knowledge that the right hon. gentleman, in this Bill, has in express terms departed from the provisions of the constitution. The British North America Act, 1867 to 1880, is to apply to these two provinces, to apply absolutely and in their whole terms. Are they? Let the right hon. gentleman answer in the terms of his own measure: No, they are only to apply 'except in so far as varied by this Act.' And yet with that provision staring him in the face, not only in section 2 but in section 10 of the Bill, he ventures, on his authority as a public man of long experience, on his responsibility as Prime Minister of Canada, on his honour as leader of this House, to stand here and tell us that he abides by the constitution, that he stands upon the rock upon which it is founded. Why, surely, the matter is not arguable. If the right hon. gentleman is sincere, let him strike out these words 'in so far as varied by this Act,' let him abolish section 10, and then you will have in truth and in their entirety those very provisions which are established upon the rock of the constitution. Let us look at the substituted section. It is worse, it seems to me—certainly it is no better than the original section:

Sir Wilfrid Laurier—In Committee of the Whole—On Bill No. 69—Will move that the following section be substituted for section 16 of the said Bill:

Section 93 of the British North America Act, 1867, shall apply to the said province.

So far very good.

Shall apply to the said province.

How apply? Absolutely, in its entirety, unamended, without variation? No, Sir. Here again is the answer of my right hon. friend in the very words which he put upon the order paper of this House only the night before last:

Section 93 of the British North America Act, 1867, shall apply to the said province, with the substitution for subsection 1 of said section 93, of the following subsection:

We are amending in this parliament section 93 of the British North America Act, which the right hon. gentleman says is applicable to the new territories. First, he lays it down in as distinct a way as ever I heard anything laid down in this parliament, that the people of these Territories became entitled to the provisions of section 93 of the British North America Act and every subsection contained in it. Then, when he comes to constitute these Territories into provinces, he takes away what he has already said is the birthright of the people of these Territories. Well, that may be argument and that may be logic, but I am bound to confess that it is argument and logic

absolutely beyond my comprehension. What is the subsection which we are going to interpolate into the British North America Act passed by the imperial parliament in respect to these provinces? What is it that we are going to substitute for the constitutional birthright of these people?

Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the Northwest Territories, passed in the year 1901.

We are amending the British North America Act of 1867 by inserting in it certain ordinances passed by the legislature of the Northwest Territories in 1901 under a delegated authority from this parliament. That is the position in which the right hon. gentleman places this matter before the House. Further, in the second subsection, it is declared that:

In the appropriation by the legislature or distribution by the government of the province of any moneys for the support of schools organized and carried on in accordance with said chapter 29, or any Act passed in amendment thereof, or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

And in the third:

Where the expression 'by law' is employed in subsection 3 of the said section 93, it shall be held to mean the law as set out in said chapters 29 and 30, and where the expression 'at the union' is employed, in said subsection 3, it shall be held to mean the date at which this Act comes into force.

And that, if you please, Mr. Speaker, is a strict adherence to the constitution, which is the birthright of the people of the Northwest Territories. I say, in all sincerity, and without the slightest desire to be offensive: Could absurdity go farther? You have applied the provisions of the British North America Act in section 2, and now, in section 10 of this Bill, you propose to abolish subsection 1 of section 93 of the British North America Act and to amend the third subsection by putting upon the terms of that section an interpretation which, I think, it could not otherwise bear. If the expression 'at the union' really means the date when the new provinces are established, it requires no amendment for the Prime Minister's purpose. If it does not bear that meaning why and by what authority shall we amend it? If my hon. friends on the other side of the House differ from me there is one test to which we can both put our opinions. Strike out these words of interpretation, because, according to their view, they are absolutely necessary. Then we will stand by the constitution exactly as it was passed in 1867, and exactly as it should govern the people of Canada, including the people of the Northwest Territories, to-day.

I was under the impression that a great deal of the agitation and dissatisfaction said to prevail in certain quarters on the other side of the House, was occasioned by the provision contained in subsection 3 of section 16 of the Bill as originally drafted. That subsection reads as follows :

In the appropriation of public moneys by the legislature in aid of education, and in the distribution of any moneys paid to the government of the said province arising from the school fund established by the Dominion Lands Act, there shall be no discrimination between the public schools and the separate schools, and such moneys shall be applied to the support of public and separate schools in equitable shares or proportion.

It was murmured—I know not with what truth—that one of the special reasons advanced by my hon. friend the ex-Minister of the Interior (Mr. Sifton) for his disagreement with his colleagues was the circumstance that this amendment had been made, and that thereby the moneys set apart for a certain purpose under the provisions of the Dominion Lands Act were supposed to be diverted from the purpose for which they were originally intended. Has that been changed? Let us read the provision which is now proposed to be substituted for it, and I will venture to say that there is a great deal less difference between the amended section and the original section proposed by the government than there is between either one or other of these sections and section 93 of the British North America Act. The amendment does not differ so much from the section as originally drafted as either one or the other of those sections departs from the terms of the British North America Act. Here is the amended section in regard to public moneys :

In the appropriation by the legislature or distribution by the government of the province of any moneys for the support of schools organized and carried on in accordance with said chapter 29 or any Act passed in amendment thereof, or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

Almost ipsissimis verbis and certainly not in the slightest degree different in substance.

What, after all, is the position in which we find ourselves to-day under the proposal of the government? Parliament undertakes to interpret some provisions and to amend others of a constitution which it has not power to alter. If the constitution is to be followed, and if parliament is to keep within its terms, the proper course is simply to provide that the general provisions of the British North America Act shall apply, in so far as they are applicable to the new provinces. It is the only course to pursue, and I stated a moment ago, what I now repeat that if the government of this country, instead of embarking on their present course, had simply con-

fined themselves to a proposal of that kind, protecting the rights of all parties under the constitution, as it was originally framed, there would have been no arousing of passion, or prejudice, or strife, and this difficult and delicate question could, I think, have been settled without any such discord as that which we have unfortunately known in this country during the past few weeks. If the constitution imposes on the new provinces the restrictions which have been spoken of, why is it necessary to distort to amend, to alter its language or to interpret the Acts referred to? Sir, it is not wise to follow a course which arouses passion, discord and discontent. Let the rights of all be governed according to the constitution, and no injustice will be done; and, more than that, no injustice will be felt. The right hon. gentleman and his colleagues have been advocates of provincial rights, champions of conciliation, in the past, and after all conciliation is better than coercion. The Prime Minister has laid that principle down many times, and I am sorry he has been so forgetful of it on the present occasion. Let us listen to what he said in 1890 :

What I understand by provincial rights—and I suppose what my hon. friend must understand—is that the people of the Territories should decide for themselves whether or not they are to have the privilege or the onus of having two official languages.

And if he was willing then that the people of the Territories should have the right to determine what should be their language, whether they should have one official language or two, why should he be afraid now to entrust to the same people the rights of any man in those Territories in respect to education. Why should there be any fear? Is not the question of language something to my friends in the province of Quebec? I am led to believe and I do believe that next to the faith to which they are attached and of which they are proud, they take a legitimate pride in their own language. And why should they not? I am English speaking and Protestant, I am not ashamed of the race from which I have sprung or of the faith to which I hold and it is for that very reason that I honour the French Canadians, because they are firmly attached to that faith which they learned at their mothers' knees, because they revere that language which they learned from their mothers' lips and because they are proud of the traditions of that splendid race to which they belong—and every one of us should honour them for that reason. Any man who has not some feeling of pride in his ancestry, who does not honour the traditions of the race from which he sprang, cannot be a good Canadian and it is well for the future of this country, it is well for the future of our people as a whole, that there should be in the two great races which dominate this country, a feeling on either side of attach-

ment to language and of pride of race. My right hon. friend (Sir Wilfrid Laurier) was willing in days gone by to entrust that great question to the fair play and justice of the people of the Northwest. May I not ask in all sincerity, Mr. Speaker, why it is that there should be any fear now? But let me continue the quotation to which I just now referred.

If you remove that law, you take away from them the privilege which they now have of using two languages. I do not believe that is in the direction of provincial rights or provincial autonomy. The amendment of my hon. friend the Minister of Justice tends to uphold provincial rights and local autonomy, and I am happy to extend my congratulations to the Prime Minister and to his government that more and more and day by day the force of circumstances brings them over to this principle.

You will observe that the right hon. gentleman in view of his attachment to provincial institutions, and provincial autonomy was then actually congratulating the leader of the Conservative government of the day because he was disposed to leave, and did leave after the next general election the question of language entirely to the justice and fair play of the people of the Northwest Territories. Yet he takes an entirely opposite stand to-day and insists that restrictions not to be found in the British North America Act shall be imposed on the people of the Northwest Territories. Then he went on:

If the hon. member for Simcoe instead of placing as a basis of his Bill that there should be a community of language, and that this community of language should extend everywhere in the Dominion where French is spoken, had simply left it to the will and desire of the people of the Territories, we would not have one half or one-tenth part of the trouble we have ever this question.

And I will tell my right hon. friend (Sir Wilfrid Laurier) that (to use his own words), if he had simply left this question of education to the will and desire of the people of the Territories, constituted as they are about to be into provinces, we would not have one-tenth or one-hundredth part of the trouble that we are having in Canada to-day over this question.

The right hon. gentleman in 1896, when he stood as the champion of the liberties of the people, as the vindicator of provincial rights said:

Experience has taught us that this remedy of interference with local legislation has never been applied and probably never can be applied without friction, disturbance and discontent; that you cannot apply that remedy without causing as much dissatisfaction as satisfaction. It must be evident that while you redress the grievance of the minority by such act of interference you run great risk of creating a grievance on the part of the majority.

I commend that language of the right hon. gentleman in 1896 to his attention now, and

I ask him, whether or not he is pursuing a wise course in departing from that principle? And a trusted and valued colleague of his to whom I have already referred (Sir Louis Davies) speaking on a similar question at a little earlier date said this:

'I desire to follow on the lines of the Liberal party laid down here years and years ago; in all local matters to refer the question to the people more immediately interested. I have never found that solution of the difficulty to fail; it has always proved equal to the occasion. Provinces have been driven almost to revolt; there has been discontent in Ontario and in Quebec; but when you apply the principle of provincial rights, when you allow the people to deal with their own local affairs as they please, the question is settled always in the way the people desire it to be settled. So it should be in the Northwest Territories. They have an equal right to speak with the people of the older provinces, and I for one will not be a party to taking away that right which if my own province were interested I would expect to have given to it.'

These were regarded as wise utterances in days gone by and do they not meet with the approval of all reasonable and fair minded people and is there reason, is there justification, is there cause for departing to-day from that which was thought wise and right before?

Why Mr. Speaker, in the very speech which the right hon. gentleman (Sir Wilfrid Laurier) delivered on the first reading of this Bill, it seems to me that he uttered his own condemnation, and I shall leave it to the judgment of the House whether I shall not make good that observation. He was dealing with the boundary question in the early part of his speech and laid down the principle that it was absolutely essential in Canada, so far as possible, to have the provinces of about equal size, and he attached a special importance to that principle, indeed, we can all see that it is more especially important to carry out that principle, in the Northwest of Canada. He was giving a reason why the boundaries of Manitoba should not be extended westerly, though Manitoba with 73,000 square miles of territory adjoins Alberta and Saskatchewan, each having an area of about 250,000 square miles. What was the reason that he gave? Let me read his own words.

But is there a member of this House who would advise us that we should carve out of the Territories which for thirty years have been under the jurisdiction of their own legislature, which are to-day represented by ten members in this House, any portion of what belongs to them and hand it over to the province of Manitoba, against the consent of the people of those Territories? If they agreed to it, well and good; I would have nothing to say. But the legislature of the Territories has more than once declared that they would not under any circumstances consent to any portion of their territory westward of the province of Manitoba being taken from them.

Further on he continues in the same strain:

But even this I am not prepared for my part to grant at this moment, because members representing that section to-day sit on the floor of this House, and they and their people have the right to be heard on that question, and if they do not agree to it I do not think the parliament of Canada should make the grant against their wishes.

If the right hon. gentleman is not prepared to extend the boundaries of Manitoba because the people of the Territories are unwilling that any portion of their territory shall be attached to Manitoba, how is it that he is willing to impose these restrictions upon them in face of the strongest possible protest by their Prime Minister, and accredited representative, Mr. Haultain? Is there one principle to be applied to the question, whether or not territory shall be added to Manitoba, and is another principle to be applied to a subject which the right hon. gentleman himself knows from long experience is liable to arouse feelings of discord and even of passion when the people think they are suffering any injustice? Why, any question as to the boundaries of the Northwest Territories would sink into insignificance, so far as sentiment goes, in comparison with that question which the right hon. gentleman has seen fit to fling abruptly into the political arena of Canada. There cannot be any doubt about that. What does the right hon. gentleman say, referring to the members from the Northwest Territories who sit on his side of the House. He says:

If they do not agree to it, I do not think the parliament of Canada should make the grant against their wishes.

What does that mean? If it means anything it means this: That the seven members from the Northwest Territories who sit on that side of the House, hold this situation within the palms of their hands, and that if they maintain a firm stand they can prevent these restrictions from being imposed on the Northwest Territories. That is what it means if it means anything; and I assume that when the Prime Minister from his place of responsibility on the floor of this parliament gives utterance to these words as a solemn reason why a principle which he declares good should not be carried out, we have a right to attach some importance to his words. May I read them again?

If the members from the Northwest Territories do not agree to it, I do not think the parliament of Canada should make the grant against their wishes.

And if the members from the Northwest Territories do not agree to this grant out of the liberties of the people of the new provinces, the Prime Minister will tell the parliament of Canada that they should not make that grant against the wishes of these members.

There is one other point upon which I shall dwell for a moment and which is, perhaps a little out of its place here. I refer to the argument which my right hon. friend made not only to-day, but also a month ago with regard to the tax exemption of the Canadian Pacific Railway. In triumphant tones on both occasions he likened this matter to an obligation upon parliament to observe the terms of a contract; he has said: in establishing these Territories you cannot rid the people of the Northwest from that exemption which was imposed by a statute passed in 1880. He told us that no one would suggest any such thing, and that no one had ever attempted to suggest it. Well, the right hon. gentleman's memory is not very good. I myself had the temerity to suggest that very thing in this parliament. I said two years ago that I thought the government should seriously take into consideration the question of removing that exemption—and parliament can do it—but I said that parliament must strictly observe the terms of its obligation and that in such case, it would be absolutely necessary for parliament to institute an inquiry and to make good to the Canadian Pacific Railway everything to which they were entitled by reason of the removal of the exemption.

Sir WILLIAM MULOCK. Hear, hear.

MR. R. L. BORDEN. The Postmaster General says 'hear, hear,' and when he and the Prime Minister can show me any contract by virtue of which this restriction must be placed upon the people of the Northwest, I will support the measure they have brought down. Why, Sir, the only contract which exists is in the terms of the constitution, and I have said over and over again to-day, that in this matter I myself, and I believe every hon. gentleman on this side of the House, is absolutely prepared to stand or fall by the constitution. But before I depart from the question whether or not this restriction shall be imposed on the people of the Northwest Territories against their will, I have one inquiry to make from my right hon. friend. The Prime Minister of the Northwest Territories said that he was not consulted with regard to the provisions of section 16 as originally drafted. He has stated in a letter—and I have not heard it contradicted—that there was only a casual reference made to the education question—one of the most important questions, of all, surely—that there was only a casual reference to it on the Friday before this Bill was introduced, and that at 12 o'clock on the very day on which the Prime Minister introduced the Bill a typewritten copy of this provision was handed to him across the table. Mr. Haultain has further stated, that the Prime Minister was not then present, that the Postmaster General was not present, that the Minister of Justice was present for a short

time, but the only gentleman who remained present during the whole of that interview, the only gentleman whom the Prime Minister of the Northwest Territories had any opportunity of consulting, (and that only three hours before the introduction of the Bill) was the Secretary of State. What was the answer of the right hon. gentleman to that assertion? It was this, that Mr. Haultain—a gentleman, as he always is—had seen fit to express, in the conclusion of his letter, his appreciation of courtesy which had always been extended to his colleagues and himself. I would like to ask the right hon. gentleman at this stage whether or not the provisions of that amended section were at any time submitted to Mr. Haultain before they were submitted to this parliament? Has Mr. Haultain been consulted with regard to this amended section?

Sir WILFRID LAURIER. No.

Mr. R. L. BORDEN. He has not. My right hon. friend has certainly abandoned most clearly his former role of advocate of the liberties of the people. Once he was ready to consult them. Once he was ready to meet their will. Once he was ready to bow to their will when constitutionally expressed. But when the Prime Minister of these Territories, which, according to the right hon. gentleman possess now almost complete rights of self-government, when the Prime Minister of these Territories and his colleagues come to Ottawa to consult with this government, and when a great question is raised, when passion and prejudice are being appealed to, the right hon. gentleman deliberately refuses to take the premier of the Northwest Territories into his confidence or seek his advice and assistance with regard to this measure. There were sunny ways in days gone by. There seem to be different ways now. I do not know for what reason the First Minister of the Territories was ignored. He and his colleagues are the accredited representatives of the Northwest Territories. They were summoned to Ottawa, and are here, for the very purpose of being consulted and of advising with regard to this measure. But although the situation is so serious, as the right hon. gentleman has depicted it, he ventures, in the face of public opinion in this country, to bring down this measure in its amended form without having given the Prime Minister of the Northwest Territories the right even to see it or examine it before it was finally decided upon.

Sir, the conclusion of the whole matter seems plain. The very basis of confederation, contemplating the eventual inclusion of all British North America, provided for separate schools in the provinces of Ontario and Quebec only. This provision was the result of compact and agreement. But no restrictions on

provincial powers were contemplated in the Northwest. None are mentioned in the Quebec resolutions. The terms of the constitution, if applied in their integrity to the new provinces, do not, in my humble opinion, restrict the powers of the provincial legislature. The people of the Northwest are, I believe, opposed to any such restrictions. We have passed resolutions in this parliament in favour of home rule for Ireland. Shall five and a half millions of people of Canada deprive half a million of people in the Territories of that home rule which is theirs under the terms of the constitution? Shall we, despite the terms of our national charter, impose upon a small minority of the people of Canada a restriction which they will always resent and against which they will always struggle? Are the people of the Northwest competent to receive the rights of self government? Why then should they not receive the same rights which were conferred upon the people of Nova Scotia, New Brunswick and Prince Edward Island, and which are now enjoyed by them? In the provinces of Ontario and Quebec there is, it is true, a compact which is embodied in our constitution and which has always been—and must always be—observed for that very reason. But at the same time let us not forget that, if I am correctly informed, the rights of the minority in Ontario to-day are greater than they were at the time of confederation in respect of separate schools. That does not look like any desire or intention to coerce. Is there any oppression of the minority in Nova Scotia, New Brunswick or Prince Edward Island? I can speak best for my own province, and I do not know that such question very much agitates its people. There is a modus vivendi, an understanding, an arrangement arrived at. Let no man suppose that I do not respect the attitude of Catholics with regard to this matter. No one can for a moment fail to realize the position, so far as they are concerned. They say: It is a matter of our faith that our children should be under instructors of their own faith, that they should receive religious instruction at school; and so strongly do we adhere to that principle that we would rather pay the state tax and also support our own schools than submit to any other system. I find no fault with that view. I only desire that such matters should be left to the people of the respective provinces and not be placed in the wide area of Dominion politics. Is there any reason to mistrust the people of the Northwest Territories? Are they disposed to be less generous than the people of Nova Scotia, New Brunswick and Prince Edward Island? What does my right hon. friend himself say on that question? I have already pointed out what he has said with regard to the use of the French language

as an official language of the Northwest of Canada. He was ready to trust that to the good sense of the people to their instinct of justice and fair play, and I venture to think to-day that if this question had not been hurled into the political arena by the right hon. gentleman, there would never have been the slightest hesitation in the Northwest of Canada about continuing those privileges to the Catholics which they now enjoy. One of my hon. friends on the other side smiles at the idea. Well, he is at liberty to enjoy his own opinion: but I venture to say that there is no reason why we should suspect the honesty, good faith and fair play of these people. I have never heard very much complaint in my own province, and while I respect the people of that province as highly as those of any other in Canada—although they did not treat me very well at the last election—I am not disposed to admit that there would be in the Northwest less generosity, less fair play, less sense of what is right and due to the minority than there is in the province of Nova Scotia. What did my right hon. friend himself say on this question? May I not appeal from the Sir Wilfrid Laurier of to-day to the plain Wilfrid Laurier of years ago? He said in 1890:—

I have no reason to suppose, and I do not for one moment suppose, that the people of the Northwest Territories would act unjustly or unfairly towards the French minority.

Well, my hon. friend may smile at my words, but he will surely admit that his leader is as well qualified to express an opinion on that subject as he is himself. And further on the Prime Minister says:

The smallest measure of conciliation is far preferable to any measure of coercion.

And did he not in his speech the other day appeal to that Canadian spirit of tolerance and charity of which confederation is the essence? And he went on to say, on another occasion, referring to the treatment of the minority in his own fair province of Quebec by those who are his fellow countrymen:

I am glad to say, and perhaps it would be permitted if in this matter, being myself a son of the province of Quebec, I indulged in what may not be an altogether unpardonable pride when I say that I am not aware that the Protestant minority ever had any cause of complaint of the treatment they had received at the hands of the majority.

Sir, we are always ready and willing to acknowledge the sense of justice, the sense of what is right, which exists in the bosoms of the French-speaking citizens of Canada. But may I not, on behalf of my fellow countrymen in the Northwest of Canada, claim that they are animated by as just a spirit of what is right and fair? If the record is good in one case, it seems to me that some consideration at least should be

given it in the other. I can appeal to the Postmaster General (Sir William Mulock), because I have in my hand an expression of similar sentiments uttered by him.

I shall cast my vote to have this matter settled by the people's representatives in the Northwest who are best able to settle it, or by such other tribunal as may be suggested after they shall have the fullest opportunity of inquiring into all the conditions of the country, believing, as I do, that neither the Northwest Council nor any other tribunal to which it might be relegated by this House will betray the trust reposed in it, but will act justly towards all the people without fear, favour or affection.

May I not ask my hon. friend the Postmaster General to believe that if this troublesome question is kept out of the arena of Dominion politics and is relegated by this House to the people of the Northwest Territories, the people of those Territories, through their representatives in parliament will not betray the trust reposed in them, but will act justly towards all the people, without fear, favour or affection?

Mr. Speaker, education was assigned to the provinces. Let any necessary agitation in respect to education, in respect to the rights and powers of legislatures with regard to education, be confined to provincial limits. That is the true solution of the question. Let the Dominion interfere and the agitation will be widespread. My proposition is to let the people settle the question for themselves, and the agitation if any—and I do not believe there will be any considerable agitation—will be confined within narrow limits, and, in the end, will be settled by some reasonable compromise, because, after all, we can always safely trust to the good sense of the people in this regard. As I said before, I firmly believe that if this question had been left to the people of the new provinces, they would have dealt, and they will deal, fairly with the minority. But we must not oppress or coerce any part of the people to provide safeguards that have not a warrant in the constitution. The constitution of Canada does not always protect minorities by any definite safeguards. There are nearly 50,000 Nova Scotian electors who, at the last general election, voted for Conservative or independent candidates, and about 55,000 or 56,000 who voted for candidates supporting the government. There are to-day in parliament 18 men representing the 55,000 or 56,000 electors, and the 50,000 men who voted for other candidates have not one single representative in parliament. What about the rights of that minority? Have those rights been safeguarded?

Some hon. MEMBERS. Oh, oh.

Mr. R. L. BORDEN. Have they been safeguarded in the sense which hon. gentleman intend by this Bill? It is true that

In one sense the eighteen men who have been elected represent the whole people of Nova Scotia; but in another sense these 50,000 electors to whom I refer have no representative in this parliament.

One further word I would like to say and it is this: That restrictions of this character imposed upon the majority for the benefit of the minority do not always work out in the way intended. For example subsection 3 of section 93 of the British North America Act provides:

Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established by the legislature of the province an appeal shall lie to the Governor General in Council from any Act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subject in relation to education.

If the people of Nova Scotia; or New Brunswick, or Prince Edward Island, tomorrow were to establish separate schools by law, they would at once bring themselves within the purview of Dominion interference. Because; it is not only from any act or decision prejudicially affecting these rights established before confederation that the appeal would lie, but from any act or decision of a provincial authority in any wise affecting such rights or privileges that the appeal will lie. And the very fact that there is a restriction of that kind may possibly act as a deterrent in these three provinces to which I have called attention.

Now, Mr. Speaker, I apologize for having so long detained the House; I had hoped to conclude in a very much shorter time. I trust that I shall not be misunderstood by any of my fellow-countrymen with regard to the position I have taken in this matter. I base my case and my contention upon the terms of the constitution. I do not argue against separate schools; I do not argue for separate schools. It is not for me to determine that question for the people of the Northwest; it is for the people of the Northwest, under the terms of the constitution, to determine that matter for themselves. I shall always endeavour to respect the opinions of my fellow-countrymen, of whatever race and of whatever creed. But I do not think it is wise to attempt to step outside of the limits of the constitution to provide remedies which have no warrant within the terms of our national charter. The battle cry of hon. gentlemen opposite in 1896 was 'Hands off Manitoba.' 'There will be no coercion Act under Laurier.' The slogan of that day raised against the exercise of coercion under

a perfectly constitutional power, should ring to-day in thunder tones in the ears of those from whose lips it then resounded. Let there be no domination of provincial liberties by the federal power, let no violent hands be laid upon the charter in which those liberties are enshrined.

Mr. Speaker, it remains for me to state to the House what action I shall take at the present time, holding the views and convictions which I have expressed. Upon the second reading of any public Bill the question of principle is discussed. So far as this Bill grants provincial autonomy, I am heartily in support of it; in so far as this Bill withdraws from the new provinces any rights to which I think they are justly entitled under the terms of the constitution, I am not in favour of it. I shall, therefore, adopt a course which has in the past been adopted by hon. gentlemen opposite on more than one occasion; a course for which there is ample precedent, both in the parliament of Great Britain and in the parliament of this country; I shall adopt the course of moving that:

All the words after the word 'that' to the end of the question be left out and the following substituted therefor:—

Upon the establishment of a province in the Northwest Territories of Canada as proposed by Bill (No. 69), the legislature of such province, subject to and in accordance with the provisions of the British North America Acts 1867 to 1886, is entitled to and should enjoy full powers of provincial self-government including power to exclusively make laws in relation to education.

The effect of this amendment is not to defeat the Bill.

Sir WILFRID LAURIER. Hear, hear.

Mr. R. L. BORDEN. My right hon. friend says 'hear, hear.' I do not want the Bill defeated; I want the Bill amended so that it shall give to the people of the Northwest Territories the full measure of self-government to which they are entitled under the terms of the constitution. It is for that reason that I have made my motion in amendment, in order that I may embody therein the principle which I think should be applied to this Bill. If carried, it will not defeat the Bill; if carried, the result will simply be that the Bill is placed on the order paper on a subsequent day, and it will go to committee with the opinion of this House in favour of the principle which I have advocated. That is the position which I think I ought to assume under the circumstances; at all events, that is the position which I do assume, and by which I am prepared to stand.